S.B. CIVIL CONTEMPT PETITION NO.201/2002
Association of Workmen of College of Technology & Agricultural Engineering, Udaipur
vs
Ms. Vineeta Bohra & Ors.

DATE OF ORDER:24.7.2006

HON'BLE MR.MOHAMMAD RAFIQ, J.

Mr. T. Gupta, for the petitioner.
Mr.M.S. Singhvi]
Mr.G.R. Punia,], for the respondents.

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The petitioner has filed this contempt petition on the premise that the respondents have not complied with the judgment dated 31.1.1994 passed by the learned Single Judge, directions contained wherein were reiterated by the Division Bench in the subsequent judgment dated 8.3.1995.

I have heard learned counsel for the parties.

The operative part of the judgment as reproduced on page no.4 of the contempt petition contains following directions to the respondents:

> "In the result, the writ petitions, filed by the petitioners, are allowed and the respondents are directed to accord these petitioner, who are performing the same duties as the other regularly employed Class IV employees are performing, the same salary as is being paid tot he other regularly appointed Class IV employees with effect from the date of institution of these writ petitions and the respondents are directed to consider districtwise their cases for regularization within a prod of three months from today against the existing vacancies and thereafter as and when the vacancies become available with the respondents, the cases of the remaining petitioners for regularization may be considered. In the facts and circumstances of the case, leave the Parties to bear their own costs."

Subsequently when the matter was taken in appeal, the Division Bench while taking note of the scheme framed by the University Administration modified the aforesaid judgment in the following terms :-

> "The Workcharge Rules are not applicable to the University. <u>However, the University Administration has framed a Scheme</u> whereby it has allowed a particular pay to the persons who have worked for less than five years as Casual Labourers on fixed pay of Rs.1100/- to those persons who have served University for more than five years, but upto 10 years and those who have worked beyond 10 years, they have been granted regular pay-scales. This is their own Scheme, which has no statutory basis. It has not been disclosed under which Ordinance and by which Authority, it has been framed and, <u>therefore, those persons whose services have not been regularized and if they are working for more than 5 years or 10 years, they can raise their grievances before the University</u> for payment of the salary according to the Scheme which is framed by themselves. Normally, such employees are workcharge employees,

whose services and working condition are governed by the Industrial Disputes Act. Because no Workcharge Rules are applicable to the University, this grant of regular pay scale against the sanctioned post will no bearing on the workers who have worked as workcharge employees. They can at best claim their relief under the Industrial Disputes Act so far as the payment of their wages and other conditions of their services are concerned or at best they can claim their wages as per the Scheme framed by the University if it is advantageous to them and if the Scheme is still in force. But, regularization can only be done against the sanctioned post and that too of a person who has been working against a sanctioned post and his services have been satisfactory.

6. Accordingly, those persons whose services have been regularized must be paid the regular salary from the date of filing of the writ petition. Such writ petitions were filed by the workcharge L.D.Cs. And in Dilip Bhatnagar & Ors V/s Rajasthan University Bikaner (S.B. Civil Writ Petition No.2922 of 1990 decided on 4th of April, 1994 alongwith six similar writ petitions), the learned Single Judge of this Court while disposing of the writ petitions ordered that they be paid the regular salary of L.D.C. from the date of filing of the earliest writ petition in which the Workcharge L.D.Cs. were represented by none else than Mr. M.S. Singhvi, who is presently appearing for University. That judgment was upheld by the Division Bench of this Court consisting of Hon'ble the Chief Justice and Hon'ble Mr. Justice N.K. Jain in Anil Prakash Mathur V/s Raj. Agricultural University (D.B. Civil Special Appeal No.219/1994 decided on 24.8.1994). Therefore, it is not possible to take a different view in the case of Class IV employees. However, those persons whose services have not been regularized, they are no better than workcharge employees and their claims about wages and other conditions of service will be governed by the Industrial Disputes Act. However, this option is left open to them to claim their wages according to the Scheme framed by the University. It is their own Scheme. That Scheme has no statutory force. But as it has been promulgated by them, the employees can take advantage of it."

(emphasis supplied)

Having heard learned counsel for the parties, I am satisfied that in the facts of present matter no case is made out for willful and deliberate contempt of aforementioned order of this Court and, therefore, the contempt petition deserves to be dismissed.

At this stage, learned counsel for the petitioner submitted that the respondents have passed certain orders regularizing services of other employees, but in the case of the petitioner they have not done so. If that be so, it can at best give rise to a fresh cause of action but does not make out any case of contempt.

In view of the above, the contempt petition is dismissed.

(MOHAMMAD RAFIQ), J.

c.p.goyal/-